

**Article 3. APPLICATION PROCEDURES****80017      APPLICANT QUALIFICATIONS****80017**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status or sexual orientation.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1520 and 1528, Health and Safety Code.

**80018      APPLICATION FOR LICENSE****80018**

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) Prior to filing an application, the applicant shall attend an orientation designed for the specific facility type and provided by the licensing agency.
- (1) The orientation shall cover, but not be limited to, the following areas:
- (A) Completion of the application for license.
- (B) Scope of operation subject to regulation by the department.
- (2) An applicant, who is already licensed for a facility in the same category, shall not be required to attend an orientation if the last orientation attended was for the same facility type and within two (2) years of the next scheduled orientation.
- (3) An applicant applying for more than one facility license, in the same facility type, shall be required to attend only one orientation.
- (c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (d) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
- (2) Name, and residence and mailing addresses of applicant.
- (A) If the applicant is a partnership, the name, and principal business address of each partner.
- (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

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- (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
  - (D) If the applicant is a corporation or association, a copy of the articles of incorporation, constitution and bylaws.
  - (E) If the applicant is a corporation, each member of the board of director, executive director, and any officer shall list the name of facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
- (3) Name and address of owner of facility premises if applicant is leasing or renting.
  - (4) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

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- (A) Health and Safety Code Section 1524.5 provides:
  - (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee, is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
  - (b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.
  - (c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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- (5) The category of facility to be operated.
- (6) Maximum number of persons to be served.
- (7) Age range, sex and the categories of persons to be served, including but not limited to persons with developmental disabilities, mental disorders, physically handicapped and/or nonambulatory persons.
- (8) Hours or periods of facility operation.
- (9) Name of administrator, if applicable.
- (10) Information required by Health and Safety Code Section 1520(d).

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- (A) Health and Safety Code Section 1520(d) provides:

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

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- (11) Information required by Health and Safety Code Section 1520(e).

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- (A) Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities specified in (9) above.

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- (12) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
- (13) A plan of operation as specified in Section 80022.

**80018 APPLICATION FOR LICENSE (Continued)****80018**

- (14) Fingerprint cards as specified in Section 80019.
- (15) Information required by Health and Safety Code Section 1522.1.

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- (A) Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

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- (16) The bonding affidavit specified in Section 80025(a).
- (17) A health screening report on the applicant as specified in Section 80065(g).
- (18) The fee for processing the application or renewal by the requested capacity as specified in Section 80036.
- (19) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

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- (A) Health and Safety Code Section 1520(g) provides:

Any other information which may be required by the department for the proper administration and enforcement of this chapter.

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- (e) The application shall be signed by the applicant.
  - (1) If the applicant is a partnership, the application shall be signed by each partner.
  - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

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- (f) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523, 1524.5, and 1560, Health and Safety Code.

**80019 CRIMINAL RECORD CLEARANCE****80019**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

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- (1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5 subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

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- (2) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.
- (D) Any staff person, volunteer, or employee who has contact with the clients.
  - 1. A volunteer shall be exempt from the requirements of this subdivision if the volunteer is a relative of a client in care at the facility and is not used to replace or supplant staff in providing direct care and supervision of clients.
  - 2. A volunteer in an adult residential facility shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer is not used to replace or supplant staff in providing direct care and supervision of clients.
- (E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
- (F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

(b) The following persons are exempt from the requirement to submit fingerprints:

- (1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:
  - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
  - (B) The individual is providing time-limited specialized clinical care or services.
  - (C) The individual is providing care or services within the individual's scope of practice.
  - (D) The individual is not a community care facility licensee or an employee of the facility.
- (2) A third-party repair person, or similar retained contractor, if all of the following apply:
  - (A) The individual is hired for a defined, time-limited job.
  - (B) The individual is not left alone with clients.
  - (C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
- (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or resident's legal decision maker.
  - (A) The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

- (4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.
  - (A) This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.
- (5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:
  - (A) Members are not left alone with the clients.
  - (B) Members do not transport clients off the facility premises.
  - (C) The same group does not conduct such activities more often than once a month.
- (6) A volunteer, if all of the following apply:
  - (A) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.
  - (B) The volunteer is never left alone with clients.
  - (C) The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene other than washing of hands.
- (7) The following persons in small family homes:
  - (A) Adult friends and family of the licensee who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.
  - (B) Parents of a child's friends when the child is visiting the friend's home and the friend, foster parent or both are also present.

**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

- (8) The following persons in adult day care and adult day support centers unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:
- (A) A spouse, significant other, relative, close friend of a client.
  - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
  - (C) The exemptions in Section 80019(b)(8)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
- (9) The following persons in adult residential and social rehabilitation facilities unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:
- (A) A spouse, significant other, relative, or close friend of a client., or the attendant or facilitator who is not employed, retained or contracted by the licensee for a client with a developmental disability, as long as the person is visiting the resident or providing direct care and supervision to that client only.
  - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
  - (C) The exemptions in Section 80019(b)(9)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
- (10) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

- (c) Prior to the Department issuing a license, the applicant, administrator and any adult other than a client, residing in the facility shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(5).

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- (1) Health and Safety Code Section 1522(a)(5) provides in part:

An applicant and any other person specified in subdivision (b) of the Health and Safety Code Section 1522 shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) of Health and Safety Code Section 1522 meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b) of Health and Safety Code Section 1522, the Department may issue a license if the applicant and each person described in subdivision (b) of Health and Safety Code Section 1522 has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the Department determines that the licensee or person described in subdivision (b) of Health and Safety Code Section 1522 has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1550. The Department may also suspend the license pending an administrative hearing pursuant to Health and Safety Code Section 1550.5.

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- (d) Prior to employment, residence or initial presence in the facility, all individuals subject to criminal record review shall be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions that acknowledges and explains the criminal convictions. The declaration shall also acknowledge that his/her continued employment, residence or presence in the facility is subject to approval of the Department as specified in Section 80065(i).
- (1) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with the requirements of Section 80019(e), prior to the individual's employment, residence, or initial presence in the community care facility.
- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
- (B) A licensee's failure to submit fingerprints to the California Department of Justice or to comply with Section 80019(e), shall result in the citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (4100) per violation by the Department.

**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

1. The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.
  2. The licensee shall then submit the fingerprints to the California Department of Justice for processing.
- (2) To continue to be employed, reside, or be present in a community care facility, each individual shall:
- (A) Be exempted from fingerprinting by statute or regulation.
  - (B) Have a criminal record clearance, or
  - (C) Have a criminal record exemption approved by the Department.
- (e) Unless otherwise exempted from the fingerprint requirements in health and Safety Code Section 1522(b), any staff person, volunteer or employee who has client contact and any resident, other than a client, must submit fingerprints.

**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

- (f) An individual may request a transfer of their criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents:
- (1) A signed written request to the Department.
  - (2) A copy of the individual's driver's license, or
  - (3) A valid identification card issued by the Department of Motor Vehicles, or
  - (4) A valid photo identification issued by another state or the United States government if the individual is not a California resident.
  - (5) Any other documentation required by the Department [i.e., LIC 508, Criminal Record Statement (Rev. 3/99) which is incorporated by reference, and job description].

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- (6) Health and Safety Code Section 1522(h) provides:
- (A) The California Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

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- (g) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 80019.1(a) has not been granted, the Department shall take the following actions:

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

- (1) For initial applicants, denial of the application.
  - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
  - (3) For current or prospective employees, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.
  - (4) For convicted individuals residing in the facility, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.
- (h) The Department shall notify the licensee and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

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- (1) Section 1522(c)(3) of the Health and Safety Code provides in part:
  - (A) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the California Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the California Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The California Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (g). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

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(B) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(2) Section 1522(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(3) Section 243.4 of the Penal Code provides in part:

(A) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(B) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(4) Section 273a of the Penal Code provides:

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

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- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.
- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

- (5) Section 273d of the Penal Code provides:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

- (6) Section 368 of the Penal Code provides:

- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.

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**80019 CRIMINAL RECORD CLEARANCE (Continued)****80019**

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- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

- (7) Section 1522(c) of the Health and Safety Code provides in part:

If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The California Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

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- (i) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 80066.
- (j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting and non-client adults residing in the facility.
- (1) Documentation shall be available for inspection by the Department.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1522, 1531 1533, 1538, 1540, 1540.1, 1541, 1547, 1549, and 14564, Health and Safety Code.

**80019.1 CRIMINAL RECORD EXEMPTION****80019.1**

- (a) After a review of the criminal record transcript, the Department may grant an exemption from Section 80019(b) or Section 80019(c)(2) if:
- (1) The applicant/licensee requests an exemption in writing for himself or herself, or
  - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
  - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
  - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed facility.
- (b) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
- (1) The nature of the crime.
  - (2) Period of time since the crime was committed and number of offenses.
  - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
  - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
  - (5) Granting by the Governor of a full and unconditional pardon.
  - (6) Character references.
  - (7) A certificate of rehabilitation from a superior court.
  - (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
    - (A) Documents include, but are not limited to:
      1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 3/99]) and
      2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
  - (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

**80019.1 CRIMINAL RECORD CLEARANCE** (Continued)**80019.1****HANDBOOK BEGINS HERE**

(A) Section 1522(g) of the Health and Safety Code provides in part:

Except as otherwise provided in this subdivision no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Sections 220, 243.4, or 264.1, subdivision (a) of Section 273a, or prior to January 1, 1994, paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraphs (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) Section 667.5(c) of the Penal Code provides in part:

For the purpose of this section, "violent felony" shall mean any of the following:

- i. Murder or voluntary manslaughter.
- ii. Mayhem.
- iii. Rape as defined in subdivision (2) of Section 261.
- iv. Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- v. Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- vi. Lewd acts on a child under 14 as defined in Section 288.
- vii. Any felony punishable by death or imprisonment in the state prison for life.

**HANDBOOK CONTINUES**

**80019.1 CRIMINAL RECORD CLEARANCE** (Continued)**80019.1**

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**HANDBOOK CONTINUES**

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- viii. Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.
- ix. Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.
- x. Arson, in violation of subdivision (a) of Section 451.
- xi. The offense defined in subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- xii. Attempted murder.

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**HANDBOOK ENDS HERE**

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- (c) The Department may deny an exemption request if:
  - (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
  - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- (d) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- (e) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (f) An individual shall be permitted to transfer a current criminal record exemption from one state licensed facility to another provided the exemption has been processed through a state licensing district office and the following are met:
  - (1) The request is in writing to the Department and includes:
    - (A) A copy of the individual's driver's license, or

**80019.1 CRIMINAL RECORD CLEARANCE** (Continued)**80019.1**

- (B) A valid identification card issued by the Department of Motor Vehicles, or
  - (C) A valid photo identification issued by another state or the United States government if the individual is not a California resident.
  - (D) Any other documentation required by the Department (i.e., LIC 508, Criminal Record Statement [Rev. 3/99] and job description).
- (g) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual with a right to an administrative hearing to contest the Department's decision.
- (h) The Department shall take the following actions if a criminal record exemption is not or cannot be granted:
- (1) For initial applicants, denial of the application.
  - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
  - (3) For current or prospective employees, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the facility.
  - (4) For individuals residing in the facility, licensee or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1522, 1531, and 14564, Health and Safety Code.

**80019.2 CHILD ABUSE CENTRAL INDEX****80019.2**

- (a) Prior to issuing a license to care for children, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1522.1 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s), and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b) and shall approve or deny a facility license, employment, residence or presence in the facility based on the results of the review.

**80019.2 CHILD ABUSE CENTRAL INDEX** (Continued)**80019.2**

- (1) The applicant shall submit the Child Abuse Central Index check (LIC 198A [3/99] which is incorporated by reference, for state licensed facilities and LIC 198 [4/99] which is incorporated by reference, for county licensed facilities) for all individuals required to be checked, directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(c).
    - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80091(e) or Section 80019.1(f).
  - (2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protection agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b), shall complete a Child Abuse Central Index check (LIC 198A), prior to employment, residence or initial presence in the facility that cares for children.
- (1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A), directly to the California Department of Justice with the individual's fingerprints as required by Section 80019(c) prior to the individual's employment, residence or initial presence in the facility.
    - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).
  - (2) The Department shall check the CACI pursuant to Penal Code Section 11170(b)(3), and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
  - (3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1522, 15321, and 14564, Health and Safety Code.

**80020 FIRE CLEARANCE****80020**

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

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- (1) The request for fire clearance shall be made through and maintained by the licensing agency.

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- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:
- (1) Persons 65 years of age and over.
- (2) Persons who are nonambulatory, as defined in Section 80001n.(1).

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- (A) Persons who use postural supports pursuant to Section 80072(a)(8) are nonambulatory.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

**80021 WATER SUPPLY CLEARANCE****80021**

- (a) All community care facilities where water for human consumption is from a private source shall meet the following requirements:
- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

**80021 WATER SUPPLY CLEARANCE 80021**  
(Continued)

- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect clients.
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Semiannually
25 or more	Initial Licensing	Quarterly

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

**80022 PLAN OF OPERATION 80022**

- (a) Each licensee shall have and maintain on file a current, written, definitive plan of operation.
- (b) The plan and related materials shall contain the following:
- (1) Statement of purposes, and program methods and goals.
  - (2) Statement of admission policies and procedures regarding acceptance of clients.
  - (3) A copy of the admission agreement.
  - (4) Administrative organization, if applicable.
  - (5) Staffing plan, qualifications and duties, if applicable.
  - (6) Plan for inservice education of staff if required by regulations governing the specific facility category.

**80022 PLAN OF OPERATION (Continued)****80022**

- ( 7 ) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.
- ( 8 ) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the clients.
  - (A) The sketch shall include the dimensions of all areas which will be used by the clients.
- ( 9 ) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.
- (10) Transportation arrangements for clients who do not have independent arrangements.
- (11) Rate setting policy including, but not limited to, policy on refunds.
- (12) A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 80025 and 80026.
- (13) Consultant and community resources to be utilized by the facility as part of its program.
- (14) A statement of the facility's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

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- (A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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- (c) If the licensee of an ARF, group home (GH), small family home (SFH), foster family home (FFH) or certified family home (CFH) certified by a foster family agency (FFA) plans to use delayed egress devices as specified in Health and Safety Code Section 1531.1(d), the plan must meet the requirements of Health and Safety Code Sections 1531.1(g) and (h).

**80022 PLAN OF OPERATION** (Continued)**80022**

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Health and Safety Code Sections 1531.1(g) and (h) are paraphrased in pertinent part:

- (g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.
- (h) The plan shall include, but shall not be limited to, all of the following:
  - (1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.
  - (2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.
  - (3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.
  - (4) A description of the facility's emergency evacuation procedures.

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- (d) If the licensee intends to admit or care for one or more clients who have a restricted health condition specified in Section 80092, the facility policies and a program description shall be included. At a minimum, the information related to those clients and their needs shall specify all of the following:
  - (1) The type of restricted health condition that the licensee plans to admit.
  - (2) The licensee's plans for serving that client.
    - (A) If the licensee plans to admit or care for one or more clients who have a staph or other serious, communicable infection, the plan must include:
      - 1. A statement that all staff will receive training in universal precautions within the first 10 days of employment, and before providing care to these clients.

**80022 PLAN OF OPERATION (Continued)****80022**

2. A statement of how the licensee will ensure that the training is obtained, and the name and qualifications of the person or organization that will provide the training.
- (3) The services that will be provided.
- (4) Staffing adjustments if needed in order to provide the proposed services.
  - (A) This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals.
- (5) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
- (e) If the licensee intends to admit or care for one or more clients who rely upon others to perform all activities of daily living, the plan of operation must also include a statement that demonstrates the licensee's ability to care for these clients. The evidence or ability may include, but not be limited to:
  - (1) The licensee's experience in providing care to these clients.
  - (2) The licensee's experience providing care to a family member with this condition.
  - (3) The licensee's plan to hire staff who have experience providing care to these clients, and documentation of what the staff person's experience has been.
  - (4) Documentation of training the licensee and/or staff have completed specific to the needs of these clients.
  - (5) History of continued placements by a Regional Center.
- (f) If the licensee intends to admit and/or specialize in care for one or more clients who have a propensity for behaviors that result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.
- (g) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section 80061.
- (h) The facility shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1512, 1520, 1528, 1531, and 1531.1, Health and Safety Code.

**80023 DISASTER AND MASS CASUALTY PLAN****80023**

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
  - (1) Designation of administrative authority and staff assignments.
  - (2) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:
    - (A) Means of exiting.
    - (B) Transportation arrangements.
    - (C) Relocation sites which are equipped to provide safe temporary accommodation for clients.
    - (D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
    - (E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
  - (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.
  - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

**80024 WAIVERS AND EXCEPTIONS****80024**

- (a) Unless prior written licensing agency approval is received as specified in (b) below, all licensees shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the contact of experimental or demonstration projects under the following circumstances:
  - (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility client.
  - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

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**HANDBOOK BEGINS HERE**

- (3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

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- (4) The licensing agency shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, of one of the following:
  - (1) The request with substantiating evidence has been received and accepted for consideration.
  - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
    - (A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.
- (d) Within 30 days of receipt of an acceptable request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1509 and 1531, Health and Safety Code; and Section 15376, Government Code.

## 80025

## BONDING

80025

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of clients and the maximum amount of cash resources to be safeguarded for all clients or each client in any month.
- (b) All licensees, other than governmental entities, who are entrusted to care for and control clients' cash resources shall file or have on file with the licensing agency, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 or less	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of clients' cash resources in excess of the current bond.
- (e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection of clients' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the clients' cash resources.
- (f) The provisions of this section shall not apply if the licensee meets the requirements specified in Section 1560 of the Health and Safety Code.

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**HANDBOOK BEGINS HERE**

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- (1) Health and Safety Code Section 1560 provides in part:

The provisions of Section 1560 shall not apply if the licensee meets both of the following requirements:

- (A) The licensee operates a community care facility which is licensed only to care for children.
- (B) The licensee safeguards client monies in amounts less than \$50 per client and less than \$500 for all clients in any month.

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**80025 BONDING (Continued)****80025**

NOTE: Authority cited: Sections 1523, 1524 and 1530, Health and Safety Code. Reference: Sections 1523, 1524, 1560 and 1561, Health and Safety Code.

**80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES****80026**

- (a) A licensee shall not be required to accept for admission or continue to care for any client whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such client's cash resources.
- (b) If such a client is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the client or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.
- (c) Except where provided for in approved continuing care agreements, no licensee or employee of a licensee shall:
  - (1) accept appointment as a guardian or conservator of the person and/or estate of any client;
  - (2) accept any general or special power of attorney except for Medi-Cal or Medicare claims for any client;
  - (3) become the substitute payee for any payments made to any client.
    - (A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the client.
  - (4) become the joint tenant on any account specified in Section 80026(i) with a resident.

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- (A) Provision for appointment of a small family home licensee as the guardian of the person, or estate, or person and estate of a child is contained in Section 83026.

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**80026      SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,      80026**  
**AND VALUABLES (Continued)**

- (d) Cash resources, personal property, and valuables of clients handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of clients shall be separate and intact, and shall not be commingled with facility funds or petty cash.
  - (1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from facility funds.
    - (A) Documentation of such transactions shall be maintained in the facility.
- (f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services in these regulations, or for any basic services identified in a contract/admission agreement between the client and the licensee.
  - (1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the clients.
- (g) The licensee shall not commingle cash resources and valuables of clients with those of another community care facility of a different license number regardless of joint ownership.
- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:
  - (1) Records of clients' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each client. Supporting receipts for purchases shall be filed in chronological order.
    - (A) Receipts for cash provided to any client from his/her account(s) shall include the client's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of client) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."
    - (B) The store receipt shall constitute the receipt for purchases made for the client from his/her account.
    - (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the client's authorized representative, if any, otherwise to the client.

**80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,  
AND VALUABLES (Continued)****80026**

- (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of a client, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:
  - (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.
  - (2) The account title shall clearly note that the account contains client cash resources.
  - (3) The licensee shall provide access to the cash resources upon demand by the client or his/her authorized representative.
  - (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
    - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a client, all cash resources, personal property, and valuables of that client which have been entrusted to the licensee shall be surrendered to the client, or his/her authorized representative, if any.
  - (1) The licensee shall obtain and retain a receipt signed by the client or his/her authorized representative.
- (l) Upon the death of a client, all cash resources, personal property and valuables of that client shall immediately be safeguarded in accordance with the following requirements:
  - (1) All cash resources shall be placed in an account as specified in (i) above.
  - (2) The executor or the administrator of the estate shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.

**80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 80026**

- (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.
  - (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the client's death to the public administrator of the county as provided in Section 7600.5 of the California Probate Code.
- (m) The following requirements shall be met whenever there is a proposed change of licensee:
- (1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of each client's cash resources, personal property and valuables entrusted to his/her care.
    - (A) Such accounting shall be made on form provided or approved by the licensing agency.
  - (2) Provided the licensing agency approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the licensing agency.
- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a client to the licensee, administrator or staff.
- (1) The record shall be attached to the account(s) specified in (h) above if the client's cash resources, personal property or valuables have been entrusted to the licensee.
  - (2) Monetary gifts or valuables given by the friends or relatives of a deceased client shall not be subject to the requirement specified in (n) and (n)(1) above.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531 and 1560, Health and Safety Code; and 20 CFR 416.601.

**80027 INITIAL APPLICATION REVIEW****80027**

- (a) Within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application is complete.
  - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
- (b) If the applicant does not submit the information requested within the 30 days specified in (2) above, the application shall be deemed withdrawn provided that the licensing agency has not denied or taken action to deny the application.
- (1) The above requirement shall not apply to facilities under construction.
- (c) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1520.3 provides:
  - (a) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

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- (b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances as follows:
- (1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
  - (2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

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- (2) "Application was denied within the last year" as specified in Health and Safety Code Section 1520.3(b) shall include initial or renewal applications.
- (3) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
  - (A) A fire clearance previously denied, but now approved;
  - (B) An Administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or
  - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.

**80027 INITIAL APPLICATION REVIEW (Continued)****80027**

- (4) This review shall not constitute approval of the application.
- (5) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.
- (6) The application/renewal processing fee shall be non-refundable as specified in Section 80036(e).

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- (d) The licensing agency shall complete the following as part of the application review process:
  - (1) A site visit to the proposed facility and a determination of the qualifications of the applicant.
  - (2) A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.
  - (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this division as specified in Health and Safety Code Section 1520.
  - (4) A determination that the facility complies with the provisions of the Community Care Facilities Act and the regulations in this division.

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NOTE: Authority cited: Sections 1523, 1524, and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1522.1, 1523, and 1524, Health and Safety Code; and Section 15376, Government Code.

**80028 CAPACITY DETERMINATION****80028**

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
  - (1) The fire clearance specified in Section 80020.
  - (2) The licensee's/administrator's ability to comply with applicable law and regulation.
  - (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.
  - (4) Facilities which accept minor parents and his/her child(ren) shall have such children included in the facility's licensed capacity.
  - (5) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
  - (6) Number of available staff to meet the care and supervision needs of the clients.
  - (7) Any restrictions pertaining to the specific category of facility.
- (c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:
  - (1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 80040.
- (e) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.
  - (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 80042.

**80028 CAPACITY DETERMINATION (Continued)****80028**

- (f) The licensing agency shall be authorized to restrict care to specific individuals.
- (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.
  - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 80040.

NOTE: Authority cited: Section 1530, Health and Safety Code and Section 10554, Welfare and Institutions Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501, 1523, 1524, 1528 and 1531, Health and Safety Code.

**80029 WITHDRAWAL OF APPLICATION****80029**

- (a) An applicant shall have the right to withdraw an application for an initial or renewal license.
- (1) Such withdrawal shall be in writing.

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- (A) Health and Safety Code Section 1553 provides in part:

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

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- (2) The fee for processing the initial or renewal application shall be forfeited.

NOTE: Authority cited: Sections 1523, 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1528 and 1553, Health and Safety Code.

**80030 PROVISIONAL LICENSE****80030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 80031 or 80040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The facility is in substantial compliance with applicable law and regulation.
  - (2) An urgent need for licensure exists.
  - (3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1520.11(b).

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(A) Health and Safety Code Section 1520.11(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.2."

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**HANDBOOK ENDS HERE**

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- (b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1523, 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1524, 1525.5, 1528 and 1553, Health and Safety Code.

**80031 ISSUANCE OF LICENSE****80031**

- (a) Within 90 days of the date that a completed application, as defined in Section 80001c.(8), has been received, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application has been approved.
  - (2) The application has been denied.
    - (A) The notice of denial shall include the information specified in Section 80040.
- (b) The licensing agency shall notify the applicant, in writing, of the issuance of the license.
- (1) Issuance of the license itself shall constitute written notification of license approval.
- (c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that a licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (1) Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.

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- (d) The licensing agency's completed review of an application for the two years immediately preceding this regulation has been approximately:
- (1) A minimum of 30 days.
  - (2) A median of 90 days.
  - (3) A maximum of 180 days.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1509, 1520, 1520.5, 1525, 1526, 1531.5 and 1553, Health and Safety Code; and Section 15376, Government Code.

**80032 TERMS OF AN INITIAL OR RENEWAL LICENSE****80032**

- (a) Except as provided in Section 80030, an initial license shall expire one year from the date of issue.
- (b) The licensing agency shall have the authority to issue a renewal license for one year if it determines that the licensee, at the time of the renewal visit, is in substantial compliance with applicable law and regulation.
- (c) The licensing agency shall have the authority to issue a renewal license for two years if it determines that the licensee, at the time of the renewal visit, is in full compliance with applicable law and regulation.

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**HANDBOOK BEGINS HERE**

- (d) Provisions for the term of an initial or renewal license to operate a child care center are contained in Section 81032.
- (e) Provisions for the term of a renewal license to operate a small family home are contained in Section 83032.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1524, 1525 and 1529, Health and Safety Code.

**80033 APPLICATION FOR RENEWAL OF A LICENSE****80033**

- (a) An application for the renewal of a license shall be filed on a form provided by the licensing agency not less than thirty (30) days prior to the license expiration date or at the time of initial application.
- (b) The renewal processing fee shall be submitted with the application for renewal as specified in Section 80036.
- (c) The renewal license shall be granted if a licensee files a renewal application within the time specified in (a) above unless the application has been denied, as specified in Section 80041.
- (d) Pending the issuance of a renewal license pursuant to (c) above, the current license shall remain in effect.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525 and 1528, Health and Safety Code.

**80034 SUBMISSION OF NEW APPLICATION****80034**

- (a) A licensee shall file a new application as required by Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:
  - (1) Any change in the location of the facility.
  - (2) Any change of licensee, including but not limited to the following when the licensee is a corporation.
    - (A) Sale or transfer of the majority of stock.
    - (B) Separating from a parent company.
    - (C) Merger with another company.
  - (3) Any change in facility category.
  - (4) Any increase in capacity.
    - (A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.
  - (5) A permanent change in any client from ambulatory to nonambulatory status.

**80034 SUBMISSION OF NEW APPLICATION (Continued)****80034**

- (b) A new application as required by Section 80018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 80027(a) if the applicant chooses to continue the application process.
- (c) A new application as required by Section 80018 shall be filed whenever a licensee fails to file a renewal application within the time limit required by Section 80033(a).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1523, 1528 and 1531, Health and Safety Code.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE****80035**

- (a) Conditions for forfeiture of a community care facility license may be found in Section 1524 of the Health and Safety Code.

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**HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220.243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

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**HANDBOOK CONTINUES**

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued)****80035**

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**HANDBOOK CONTINUES**

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- (e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.
- (f) The licensee abandons the facility.

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- (1) "Licensee abandons the facility" shall mean either of the following:
  - (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or
  - (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
    - 1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and
    - 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
    - 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
  - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

**80035****CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE  
FACILITY LICENSE (Continued)****80035**

- (2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e)(4).
  - (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.
  - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1524(e) and 1530, Health and Safety Code. Reference: Sections 1524 and 1524(e), Health and Safety Code.

**80036 APPLICATION/RENEWAL PROCESSING FEES****80036**

- (a) Except for residential facilities operated by public agencies, and adult day care facilities, an applicant or a licensee shall be charged a fee for processing the application or renewal.

- (b) A fee shall be charged at the time of this initial and renewal application.

- (1) The fee charged at initial application shall be according to requested capacity as follows:

Capacity	Original Application
1 - 6	\$100
7 - 15	\$150
16 - 49	\$200
50 +	\$250

- (2) The fee charged at renewal application shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

Capacity	Renewal Application
1 - 6	\$100
7 - 15	\$150
16 - 49	\$200
50 +	\$250

- (c) No additional fee shall be charged when the licensee requests an increase in capacity during a licensing period.

- (d) When a licensee moves a facility from one location to another, the application/renewal processing fee shall be as follows:

Capacity	Relocation
1 - 6	\$50
7 - 15	\$75
16 - 49	\$100
50 +	\$125

<b>80036</b>	<b>APPLICATION/RENEWAL PROCESSING FEES (Continued)</b>	<b>80036</b>
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- (1) To receive the reduced fee the following shall apply:
- (A) The licensee shall have notified the licensing agency before actually relocating the facility.
  - (B) The categorical type of facility shall remain the same when relocating the facility.
  - (C) The fee shall be by requested capacity at the new location.
- (e) The application/renewal processing fee shall be nonrefundable except as provided in Government Code Section 15378.

NOTE: Authority cited: Sections 1523, 1524 and 1530, Health and Safety Code. Reference: Sections 1523 and 1524, Health and Safety Code; and Section 15378, Government Code.

**Article 4. ADMINISTRATIVE ACTIONS****80040 DENIAL OF INITIAL LICENSE****80040**

- (a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 80058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(A) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

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**HANDBOOK CONTINUES**

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**80040 DENIAL OF INITIAL LICENSE** (Continued)**80040**

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**HANDBOOK CONTINUES**

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.
2. Harm by reason of intentional neglect or malnutrition or sexual abuse.
3. Going without necessary and basic physical care.
4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

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- (3) An application for licensure shall be denied as specified in Health and Safety Code Sections 1520.11(b), (d) and 1550.

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**80040 DENIAL OF INITIAL LICENSE (Continued)****80040**

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(A) Health and Safety Code Section 1520.11(b) reads:

“(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.”

(B) Health and Safety Code Section 1520.11(d) states:

“(d) Prior to instituting administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person’s ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification.”

(C) Health and Safety Code Section 1550 states:

“The department may deny an application for, or suspend or revoke, any licensee, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

“(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

“(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.”

“(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

“(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

“(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

“(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.”

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**80040 DENIAL OF INITIAL LICENSE (Continued)****80040**

- (b) If the application for an initial licensee is denied, the licensing agency shall mail the applicant a written notice of denial.
  - (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.
- (c) If the application for an initial license is denied, the application processing fee shall be forfeited.
- (d) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.

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**HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

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- (e) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1525, 1526, 1528, 1547 and 1548, Health and Safety Code.

**80041 DENIAL OF A RENEWAL LICENSE 80041**

- (a) The licensing agency shall have the authority to deny an application for a renewal license under the following circumstances:
- (1) The licensee is not in substantial compliance, as defined in Section 80001s.(6), with applicable law and regulation at the time of the renewal.
  - (2) Failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.
  - (3) The licensee has failed to pay any civil penalty assessments pursuant to Section 80054 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
  - (4) The licensee refuses or fails to pay the renewal processing fee as specified in Section 80036(b)(2).
- (b) If the application for a renewal license is denied, the licensing agency shall mail the licensee a written notice of denial.
- (1) The notification shall inform the licensee of and set forth the reasons for the denial, and shall advise the licensee of the right to appeal.
- (c) If the application for a renewal license is denied, the renewal processing fee shall be forfeited.
- (d) The licensee shall have the right to appeal the denial of the application for renewal pursuant to Health and Safety Code Section 1526.

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**HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

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**80041 DENIAL OF A RENEWAL LICENSE** (Continued)**80041**

- (e) When a renewal application is denied and the licensee appeals the denial, the licensing agency shall, upon written request from the licensee within the 15-day period, issue a license pending adoption by the director of a decision on the denial action.
- (f) An application for renewal licensure shall not be denied solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (1) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission prescribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (2) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

- (3) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

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**HANDBOOK CONTINUES**

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- (4) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

- (A) Serious physical injury inflicted upon the child by other than accidental means.
- (B) Harm by reason of intentional neglect or malnutrition or sexual abuse.
- (C) Going without necessary and basic physical care.
- (D) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
- (E) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

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NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525, 1526 and 1528, Health and Safety Code.

**80042 REVOCATION OR SUSPENSION OF LICENSE****80042**

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5.

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- (1) Health and Safety Code Section 1550 specifies the following grounds:

"The department may deny an application for, or suspend or revoke any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee, or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

- (2) Health and Safety Code Section 1550.5 provides in pertinent part:

"The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.

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**80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)****80042**

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**HANDBOOK CONTINUES**

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"(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed."

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**80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)****80042**

- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

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- (1) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

- (A) When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.

- (B) The licensee has the right to a hearing prior to the revocation or suspension of a license, except as provided below:

- (1) The Director may temporarily suspend any license prior to hearing when in his/her opinion such action is necessary to protect the clients in the facility from any physical or mental abuse or any other substantial threat to health or safety.

- (2) When the Director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and concurrently serve the licensee with an accusation.

- (C) The licensee shall apply for a hearing under (B) above by sending a written notice of defense to the Director within 15 calendar days of the mailing date of the revocation or suspension notice.

- (D) The Director shall, within 15 days of receipt of the notice of defense, request the Office of Administrative Hearings to set the matter for hearing.

- (c) For a revocation and temporary suspension action, the Director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

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**80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)****80042**

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1550, 1550.5, and 1551, Health and Safety Code.

**80043 LICENSEE/APPLICANT COMPLAINTS****80043**

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- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY****80044**

- (a) The Department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1526.5, 1533, 1534 and 1538.

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- (1) Health and Safety Code Section 1526.5 provides in part:

Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the Department shall conduct an inspection of the facility for which the license or special permit was issued.

- (2) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee, or agent of the state department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

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**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING  
AGENCY (Continued)**

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**80044**

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- (3) Health and Safety Code Section 1534 provides in part:

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the Director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

- (4) Health and Safety Code Section 1538 provides in part:

- (A) Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter such facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.
- (B) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agency of the state department conducting the investigation or inspection pursuant to this chapter.
- (C) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

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**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING  
AGENCY (Continued)****80044**

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- (D) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

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- (b) The Department or licensing agency shall have the authority to interview clients, including children, or staff, and to inspect and audit client or facility records without prior consent.
- (1) The licensee shall make provisions for private interviews with any clients, including children, or any staff member; and for the examination of all records relating to the operation of the facility.
- (c) The Department or licensing agency shall have the authority to observe the physical condition of the client, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1526.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

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**80045 EVALUATION VISITS****80045**

- (a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections 1534 and 1548.

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- (1) Health and Safety Code Section 1534 provides:

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

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**80045 EVALUATION VISITS (Continued)****80045**

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The state department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon finding of noncompliance, the state department may levy a civil penalty not to exceed fifty dollars (\$50) per day which shall be paid to the state department each day until the state department finds the facility in compliance. If the facility fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the state department. In such case, the department may also initiate action against the facility in accordance with the provisions of Article 5 (commencing with Section 1550) of this chapter.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

- (2) Health and Safety Code Section 1548 provides in part:

In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.

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- (b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulation.

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- (c) Repealed by Manual Letter No. CCL-91-05, effective 1/20/91.

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NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1528, 1533, 1534, 1538 and 1548, Health and Safety Code.

## 80046

## EXCLUSIONS

80046

- (a) An individual can be prohibited from serving as a member of a board of directors, executive director, or officer; from being employed or allowing an individual in a licensed facility as specified in Health and Safety Code Sections 1558 and 1558.1.

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- (1) Health and Safety Code Section 1558 reads:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

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"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

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**80046 EXCLUSIONS** (Continued)**80046**

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"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

"(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

"(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

(2) Health and Safety Code Section 1558.1 reads:

"(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

"(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

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"(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

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"(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence."

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1558 and 1558.1, Health and Safety Code.